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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
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12)
13 INTERNATIONAL CHURCH OF THE)
14 FOURSQUARE GOSPEL,)

15 Plaintiff,)

16 vs.)

17 CITY OF SAN LEANDRO, et al.,)
18)

19 Defendants.)
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21 FAITH FELLOWSHIP FOURSQUARE)
22 CHURCH,)

23 Real Party in Interest.)
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Case No.: C07-03605 –PJH-JCS

**[PROPOSED] ORDER GRANTING
PLAINTIFF’S MOTION FOR PARTIAL
SUMMARY ADJUDICATION ON
DEFENDANT’S AFFIRMATIVE DEFENSES**

(FRCP 56)

Hearing: September 3, 2008

Time: 9:00 a.m.

Ctrm: 3

Hon.: Phyllis J. Hamilton

First Amended Complaint Filed: Sept. 26, 2008

ORDER

The motion of Plaintiff, International Church of Foursquare Gospel (ICFG), for partial summary adjudication came on regularly for hearing before this court on September 3, 2008, the Honorable Phyllis J. Hamilton Judge, presiding. Kevin T. Snider and Matthew B. McReynolds, of the Pacific Justice Institute, appeared as attorneys for plaintiff, and _____, of Meyers, Nave, Riback, Silver and Wilson, appeared as counsel for Defendant.

After full consideration of all of the upon the, records, exhibits, points and authorities and other papers submitted in support and opposition to the motion, and after oral argument of counsel, the Court grants Plaintiff's motion for partial summary adjudication as to the Defendant's affirmative defenses as follows:

1. Defendant's First Affirmative Defense (Failure to State a Claim as to RLUIPA),
GRANTED.
2. Defendant's Second Affirmative Defense (Standing), GRANTED.
3. Defendant's Third Affirmative Defense (Failure to State a Claim – no actual controversy),
GRANTED.
4. Defendant's Fourth Affirmative Defense (Lack of Causation by City), GRANTED.
5. Defendant's Fifth Affirmative Defense (Failure to Mitigate), GRANTED.
6. Defendant's Sixth Affirmative Defense (Ripeness), GRANTED.
7. Defendant's Seventh Affirmative Defense (Laches), GRANTED.
8. Defendant's Eighth Affirmative Defense (Estoppel), GRANTED.
9. Defendant's Ninth Affirmative Defense (Waiver), GRANTED.
10. Defendant's Tenth Affirmative Defense (Unclean Hands), GRANTED.

1 11. Defendant's Eleventh Affirmative Defense (Failure to Exhaust Administrative Remedies),
2 GRANTED.

3 12. Defendant's Twelfth Affirmative Defense (Violation of California and U.S. Constitutions),
4 GRANTED.

5 13. Defendant's Thirteenth Affirmative Defense (RLUIPA is Unconstitutional), GRANTED.

6 14. Defendant's Fourteenth Affirmative Defense (Statute of Limitations), GRANTED.

7 15. Defendant's Fifteenth Affirmative Defense (Absolute Immunity), GRANTED.

8 16. Defendant's Sixteenth Affirmative Defense (International Church of the Foursquare
9 Gospel Lacks the Capacity to Sue), GRANTED.

10 17. Defendant's Seventeenth Affirmative Defense (Faith Fellowship is Improperly Called a
11 Real Party in Interest), GRANTED.
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15 IT IS SO ORDERED.

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17 Dated: _____, 2008.
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20 _____
21 THE HONORABLE PHYLLIS J. HAMILTON
22 UNITED STATES DISTRICT COURT JUDGE
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